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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

LENORE ALBERT, Plaintiff and Appellant, v. PAM RAGLAND et al., Defendants and Respondents.	G052204 (Super. Ct. No. 30-2014-00738725) O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Geoffrey T. Glass, Judge. Affirmed.

Law Offices of Lenore Albert and Lenore L. Albert for Plaintiff and Appellant.

Morris & Stone, Aaron P. Morris and Deanna Stone Killeen for Defendant and Respondent Pam Ragland.

Brutzkus Gubner Rozansky Seror Weber, Jeffrey A. Kobulnick, Susan S. Baker; Gingras Law Office and David S. Gingras for Defendant and Respondent Xcentric Ventures, LLC.

Law Offices of Adrianos Facchetti, Adrianos Facchetti, and Aaron Schur for Defendant and Respondent Yelp, Inc.

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I. OVERVIEW

This is one of three appeals arising out of an omnibus complaint (Orange County Superior Court case number 30-2014-00738725, or the "725 action") filed by lawyer Lenore Albert against multiple defendants she alleges defamed her. All the appeals arise out of anti-SLAPP[1] motions on which Albert was either entirely, or in part, the losing party: In G052748 (the Hannah appeal), we deal with anti-SLAPP motions brought by three attorney defendants, Mitchell Hannah, Devin Lucas, and David Seal. In this appeal G052204 (the Ragland appeal), we deal with the anti-SLAPP motions of internet provider Xcentric Ventures, and private individuals Pam Ragland, Karen Rozier and Maegan Nikolic. An attorney fee award in favor of Yelp, Inc., based on an earlier successful anti-SLAPP motion, is included in this appeal as well. And finally, in the third case G053172 (the Seal appeal), we deal with the merits of Albert's own *unsuccessful* anti-SLAPP motion against attorney David Seal's cross-complaint.

One reason for the scattered nature of the appeals from the diverse anti-SLAPP orders is that the various anti-SLAPP motions of the several defendants did not all come in at the same time. In this, the Ragland appeal, Xcentric, Pam Ragland, Karen

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1 All references to the anti-SLAPP statute are to section 425.16 of the Code of Civil Procedure, and all undesignated statutory references are to the Code of Civil Procedure. Any undesignated reference to a subdivision is to section 425.16 of the Code of Civil Procedure.

When we refer to "prong one" of the anti-SLAPP statute, we refer to whether a given claim qualifies for anti-SLAPP treatment in the first place. When we refer to "prong two" of the anti-SLAPP statute, we refer to whether the claim is sufficiently viable to survive anti-SLAPP treatment. (See *Armin v. Riverside Community Hospital* (2016) 5 Cal.App.5th 810, 820, fn. 10.)

Rozier and Maegan Nikolic all filed their anti-SLAPP motions in the winter of 2014, which was after Albert's first amended complaint in the 725 action, but before her second amended complaint, which named additional defendants who are the subjects of the Hannah and Seal appeals. As we explain, Albert is thus stuck with the causes of action alleged in her first amended complaint and cannot add new ones. This plays a part in our affirmance of the trial court.[2]

II. THE MERITS OF THE ANTI-SLAPP MOTIONS

A. *Xcentric Ventures*

Xcentric Ventures operates the "Ripoff Report" website, which is devoted to consumer complaints, i.e., negative reviews of businesses. (See generally *Global Royalties, Ltd. v. Xcentric Ventures, LLC* (D. Ariz. 2008) 544 F.Supp.2d 929, 930 (*Global*).) Albert was the target of one of those negative reviews, posted on the site.[3]

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[2] Albert filed two motions on January 4, 2016, and another one on January 31, 2017, to augment the record with material not considered by the trial court. All are denied. We do not consider material not before the trial court. (See *In re Zeth S.* (2003) 31 Cal.4th 396, 405.)

[3] It read: "Lenore Albert is an evil and corrupt attorney with only one plan, to cause the most damage to her clients while taking them for as much money that she can. She promises you the world, meanwhile she works with the defendants, so you end up with no home, and no recourse by the time she is through with you and your case. Then she sends you packing and doesn't give a hoot if you gave her your last dime. [¶] She will do everything in her power to make you lose your home and is incapable of handling a trial so; she either loses the case due to a missed filing or because of her lackluster understanding of the new laws in real estate litigation. [¶] She is so paranoid because of all the clients she has burned, and creates so much conflict so others will not get together to discuss her unethical handling of their cases, so her illegal practices do not come to the surface. I am here to tell you that we know that she has her new clients spy on her long term clients so she can find an excuse to dismiss them and damage their cases. [¶] She uses Facebook as a spying tool and I recommend that everyone block her so she does not continue her ambulance chasing tactics because that is how she gets 80% of her clientele. She filed a false temporary restraining order on a guy who worked for her after he found out that she was damaging clients on purpose. The other assistants in her office, six and counting, have had the same type of outcome when they chose to leave her firm, they are blamed for her missed filings and reason for cases being dismissed, she even holds their last checks. [¶] She targets people of color, because she believes they are stupid and no one is going to believe them, and they have no way of fighting back. She will go as far as to blackmail, coerce, and terrorize in order to get what she wants without batting an eye, and refuses to take advice or consider new information in order to build your case so she lives for clients' retainers and files the bare minimum. [¶] I do not recommend her and if you do use her, you will regret it."

Albert's first amended complaint listed only three causes of action against Xcentric: defamation, interference with economic advantage, and intentional infliction of emotional distress.

There is no question that to the degree Xcentric simply operates a website for people who want to complain about businesses, it is immune, under section 230 of the federal Telecommunications Act of 1996 (47 U.S.C. § 230), from causes of action based on any content posted by those complainers. (See *Global*, *supra*, 544 F.Supp.2d at p. 933 [even though Ripoff Report "encourages publication of defamatory content" it was still immune under section 230 because of exercise of publisher's traditional editorial function]; *Hupp v. Freedom Communications, Inc.* (2013) 221 Cal.App.4th 398 [newspaper website not responsible for five postings by author of article on the website]; see also *Zeran v. America Online, Inc.* (4th Cir. 1997) 129 F.3d 327; *Batzel v. Smith* (9th Cir. 2008) 333 F.3d 1018; *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.* (4th Cir. 2009) 591 F.3d 250; *Jones v. Dirty World Entertainment Recordings LLC* (6th Cir. 2014) 755 F.3d 398.)[4]

A more problematic question involves certain of Albert's allegations about Xcentric's business model. Albert asserts (in paragraphs 89 through 92 of the first amended complaint) that Xcentric makes money by selling its negative reviews to third parties, who then offer to sell the unfortunate target of those reviews various services to restore the target's online reputation. (Attached to the first amended complaint were emails from three such parties offering to help Albert in some way or other.

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[4] Albert's reliance on *Fair Housing Council v. Roommates.com, LLC* (9th Cir. 2008) 521 F.3d 1157 (*Roommates*) does not persuade. *Roommates* involved a website specifically designed to elicit *illegal* housing preferences. (See *Roommates, supra*, 521 F.3d at p. 1170.) But as regards Xcentric, a bad review is not illegal, (even though it might be defamatory). We also note that Albert offered no evidence that Xcentric paid the author of the bad review quoted in footnote 3 to write the review, thereby in part contributing to its content. (Cf. *Hy Cite Corp. v. Badbusinessbureau.com, L.L.C.* (D. Ariz. 2005) 418 F.Supp.2d 1142, 1149 ["Plaintiffs further allege that Defendants 'solicit individuals to submit reports with the promise that individuals may ultimately be compensated for their reports.' These allegations arguably could support a finding that Defendants are 'responsible . . . for the creation or development of information' provided by individuals submitting Rip-off Reports in response to Defendants' solicitation."].)

A stronger variation of that alleged business plan, elaborated on by Albert herself in her briefing though not her complaint, is discussed in *Small Justice LLC v. Xcentric Ventures LLC* (D. Mass. 2015) 99 F.Supp.3d 190, 195, 199, and in *Asia Economic Institute v. Xcentric Ventures, LLC* (Apr. 20, 2010, C.D. Cal. 2010) [2010 WL 11462989] *(Asia Economic*). The variation is that Xcentric doesn't just sell the names of the businesses who receive poor reviews to third parties so those third parties can solicit restorative services. Rather, Xcentric operates its own fee-based services, namely an arbitration service and a "corporate advocacy program" which are aimed at changing the target's internet review status for the better. That is, Xcentric has a de facto expectation of profit from the bad reviews that other content providers post. In her briefing, Albert says Xcentric's business model is "akin to extortion." To paraphrase Albert's business model is "Get a bad review, pay up by way of the arbitration or advocacy program, or suffer a continued trashed reputation."

On this point, however, Albert made the fundamental mistake of waiting until *after* an anti-SLAPP motion was filed before presenting her extortion theory about Xcentric. When Xcentric filed its anti-SLAPP motion in this case, the operative complaint was Albert's first amended complaint filed in September 2014. That complaint only alleges causes of action against Xcentric for defamation, interference with economic advantage, and intentional infliction of emotional distress. None of those causes of action are based on the theory that Albert is the victim of Xcentric's "akin to extortion" business model. In fact, her trial court papers do not even mention the "commercial speech" exception to the anti-SLAPP statute set forth in section 425.17. (Cf. *Demetriades v. Yelp, Inc.* (2014) 228 Cal.App.4th 294 [Telecommunications Act immunity does not protect Yelp from what Yelp says about itself].)

Perhaps, for sake of argument, Albert might have indeed been able to allege causes of action for unfair competition or even extortion against Xcentric based on allegations of its putatively extortionate business model. There is some authority to that

effect. (See *Asia Economic, supra* [2010 WL 11462989 at pp. 18-19] [noting even Xcentric conceded that extortion and unfair business practices claims are not within the protection of California's anti-SLAPP statute, thus denying anti-SLAPP motion as to those claims].) But when Xcentric's anti-SLAPP motion was filed, Albert's ability to amend to add new claims ended.[5] (See *Jackson v. Mayweather* (2017) 10 Cal.App.5th 1240, ___; *Mobile Medical Services, etc. v. Rajaram* (2015) 241 Cal.App.4th 164, 170; *Hansen v. California Department of Corrections & Rehabilitation* (2008) 171 Cal.App.4th 1537, 1547; *Sylmar Air Conditioning v. Pueblo Contracting Services, Inc.* (2004) 122 Cal.App.4th 1049, 1055; see also *Simmons v. Allstate Ins. Co.* (2001) 92 Cal.App.4th 1068, 1073-1074 [importance of operative pleading].)[6]

But that is not before us. Albert did not do so. Since the only causes of action she alleged against Xcentric were necessarily predicated on content posted to Xcentric's site by third parties, the trial judge was correct in granting Xcentric's anti-SLAPP motion and that ruling is affirmed.

B. *Pam Ragland, Karen Rozier and Maegan Nikolic*

1. *Making Sense of the Issues on Appeal*

Though anti-SLAPP motions are intended to winnow out meritless claims at an "early stage" (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 385), our record is still voluminous (and that's without augmenting it as requested by Albert (see fn. 2, *ante*)). Beyond that, much of Albert's briefing in regard to the three individual defendants

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5 Including any theory that Xcentric is an indispensible party required to be in the case merely in order for the court to have jurisdiction over it to have it take down the offending review of Albert's services.

6 Two cases add a twist on this rule, but a twist not applicable to Albert's case: *Nguyen-Lam v. Cao* (2009) 171 Cal.App.4th 858 (*Nguyen-Lam*) and *Martin v. Inland Empire Utilities Agency* (2011) 198 Cal.App.4th 611 (*Martin*). Both arise out of the scenario that if a trial court (oxymoronically) *grants* an anti-SLAPP motion *with* leave to amend, it is the functional equivalent of *denying* the anti-SLAPP motion. The trial court here, though, indulged in no such self-contradictory rulings. The anti-SLAPP motions were granted, period. Moreover, both *Nguyen-Lam* and *Martin* are quite clear in agreeing with the general rule that amendments are not allowed after anti-SLAPP motions are filed. (See *Nguyen-Lam, supra*, 171 Cal.App.4th at p. 871 ["a plaintiff may not avoid or frustrate a hearing on the anti-SLAPP motion by filing an amended complaint]" and *Martin, supra*, 198 Cal.App.4th at p. 629 ["we stress what other cases exposited herein have strongly noted: section 425.16 provides no mechanism for granting anti-SLAPP motions *with leave to amend*"].)

Ragland, Rozier and Nikolic is unhelpful. In order to make some sense of that briefing, we must now enforce two well-established rules of appellate procedure.[7] Those rules are:

(1) Issues on appeal are confined to those issues that are set out in headings and subheadings. (*Citizens Opposing a Dangerous Environment v. County of Kern* (2014) 228 Cal.App.4th 360, 380, fn. 16 [declining "to address these contentions" not listed "'under a separate heading or subheading'"]; *Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 201 [argument "forfeited" by not presenting it "in an appellate brief under a separate heading"]; Eisenberg, et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2017) ¶ 9:91 ["The court may disregard arguments not properly segregated under appropriate discrete headings."].)

(2) Statements of fact must not only be supported by record references, but those record references must be specific to the material in the record being cited. Block record references – certainly those of more than 20 pages, and probably less – may be disregarded. (*Bernard v. Hartford Fire Ins. Co.* (1991) 226 Cal.App.3d 1203, 1205 (*Bernard*); *Spangle v. Farmers Ins. Exchange* (2008) 166 Cal.App.4th 560, 564, fn. 3; 5 Cal. Jur.3d, Appellate Review, § 600.)

As to the first rule – the need to identify issues by headings and subheadings – Albert aggregates her arguments regarding all three individual, non-attorney defendants (Ragland, Rozier and Nikolic) together, and makes no attempt to analyze the individual statements of each defendant. Her aggregated argument, as framed by her heading "D.," is: "THE TRIAL COURT ERRED IN FINDING THAT PAM RAGLAND, KAREN ROZIER, AND MAEGAN NIKOLIC MET THE FIRST PRONG OF § 425.16 BECAUSE THE ACTIVITY OF DISPARAGING A PROFESSIONAL IN

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[7] As one panel of the Court of Appeal has observed, "[a]ppellate procedural requirements, such as use of headings and citations, must be more strictly enforced as the size of the record grows." (*Paterno v. State of California* (1999) 74 Cal.App.4th 68, 76; accord, *Akins v. State of California* (1998) 61 Cal.App.4th 1, 17, fn. 9; *People ex rel. Feuer v. Superior Court (Cahuenga's the Spot)* (2015) 234 Cal.App.4th 1360, 1384.)

HER PROFESSIONAL CAPACITY BY CALLING HER A CROOK FOR EXAMPLE, IS NOT PROTECTED ACTIVITY."

There are two subheadings under this heading, both verb-less, "D.1.": "DEFAMATION, IIED, AND INTERFERENCE WITH ECONOMIC RELATIONS" and D.2., "FRAUD & FAILURE TO WARN (DECEIT)."

The former, D.1., appears to make a prong two argument, that is, it goes to the viability of Albert's claims for discrete causes of action, as distinct from whether Albert's claims are eligible for anti-SLAPP treatment under prong one. The latter, D.2., isn't properly a subheading at all, because it doesn't even concern Ragland, Rozier or Nikolic. It is not logically within the topic covered by major heading D. Rather, it only addresses causes of action that Albert wants yet to bring against Xcentric, a topic we have already covered in this opinion.[8]

And, third as relating to Ragland, Rozier and Nikolic, there is a stand-alone heading "F.", this one with a verb: "THERE WAS EVIDENCE OF MALICE." This one appears to make a prong two argument, that is, it suggests Albert has viable claims for defamation even if Albert is a public figure or limited public figure, because she has evidence that statements made by Ragland, Rozier and Nikolic were made with malice.

This kind of desultory briefing complicates our task. What are we to do with such skipping about?[9] We must be careful with regard to both sides. On the one hand, courts seek to adjudicate cases on the merits, not on procedural defects. (See *Zamora v. Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 255-256.) On the other, we note that two of the three individual defendants, Rozier and Nikolic, decided

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8 In this subsection Albert cites *Martin, supra*, 198 Cal.App.4th 611, as authority for the idea she should have been allowed to amend. It isn't. (See fn. 6, *ante*.)

To the same effect is subheading "E." concerning false advertising and unfair business competition, which is a continued elaboration on the theme that Albert has viable claims against Xcentric if only Albert were allowed to amend.

9 The word "desultory" derives from the image of a circus performer who jumps from one horse to another.

not to file respondent's briefs, perhaps in reliance on how Albert had phrased her headings and subheadings. Going beyond the reasonable scope of those headings and subheadings could be unfair to Rozier and Nikolic.

In an attempt to resolve these issues fairly, we proceed this way: We first examine Albert's main prong one argument "D." as to whether the trial court was correct in determining that the anti-SLAPP motions of Ragland, Rozier or Nikolic met prong one under Albert's "crook" theory. Next, though subheading D.1 is inartfully framed, we examine whether Albert has carried her burden as an appellant of showing prejudicial error on the trial court's part as regards Albert's claims for "defamation, IIED, and interference with economic relations" under prong two. Finally, we examine heading F. to see if Albert's briefing as regards the evidence of malice also shows any prong two error.

2. *Prong One: Albert's "Crook" Argument*

As framed, Albert's prong one argument in heading D. is not viable. The argument confuses the issue of whether a given statement qualifies for procedural protection under the anti-SLAPP statute with the issue of whether it is defamatory. A statement might indeed be defamatory, even defamatory per se (see e.g., Civ. Code, § 46) and still qualify for anti-SLAPP treatment under prong one of the anti-SLAPP statute. (E.g., *Hawran v. Hixson* (2012) 209 Cal.App.4th 256, 269-270, 290 [press release qualified for anti-SLAPP treatment even though it was defamatory per se].)

Put another way: Yes, you can call someone a crook and still be within prong one.

As to the merits of whether statements of Ragland, Rozier and Nikolic actually did come within prong one, we note that both elements for anti-SLAPP protection under the public-forum public-interest subdivision of the anti-SLAPP statute, subdivision (e)(3) ("made in a place open to the public or a public forum" and "in connection with an issue of public interest") are satisfied.

All the alleged defamatory comments were made on Facebook, and it is now established that Facebook is a public forum within the meaning of the anti-SLAPP statute. (See *Cross v. Facebook, Inc.* (Aug. 9, 2017, A148623) ___ Cal.App.5th ___, ___ [2017 LEXIS 691]; *Jackson v. Mayweather*, *supra*, 10 Cal.App.5th at p. 1252 [referring to Facebook postings specifically]; *Barrett v. Rosenthal* (2006) 40 Cal.4th 33, 41, fn. 4 [websites generally]; *Wilbanks v. Wolk* (2004) 121 Cal.App.4th 883, 895 [statements published on defendant's website "hardly could be more public"].)

And they were about Albert, who has made herself an object of public interest as a high-profile, publicity-worthy, anti-foreclosure, anti-bank litigator. Albert might not be quite the second coming of William Jennings Bryan, but she has certainly established a public profile as an anti-bank lawyer whose crusading efforts are designed to benefit not only her clients but the public in general.

Albert's own first amended complaint, in paragraphs 46 and 47, highlights the public nature of her practice, alleging Albert regularly received publicity on her cases prior to Nikolic's comments. Albert's complaint seeks compensation for the *loss* of that publicity. Paragraphs 48 through 51 of the first amended complaint further emphasize Albert's desire for publicity by highlighting two of Albert's victories in foreclosure law (one involving an alleged "lockout" by Bank of America of a homeowner, the other reinstating a class action involving homeowner standing to sue Barclays about rigging interest rates). Those paragraphs alleged those victories were "hot news" items that *should* have "garnered" some "mainstream press" but didn't. Albert also admits, in paragraph 52 of her first amended complaint, that she used a "media consultant" to obtain publicity for her causes.

And Ragland's evidence supporting her anti-SLAPP included excerpts from Albert's own website. On that site Albert notes that journalists from the Daily Journal and American Banker sought interviews with her. The website further emphasizes that "Lenore Albert was featured in USA Today and other newspapers who run stories written

by syndicated career advice columnist Andrea Kay" and Albert's own quote, "It is always gratifying to receive favorable coverage for my efforts on behalf of my clients."

Albert's efforts had thus made her and her practice a matter of public interest. In that regard, we find *Wong v. Jing* (2010) 189 Cal.App.4th 1354 (*Wong*) instructive. The court in *Wong* helpfully cataloged the case law concerning when a website's comments about a business come within anti-SLAPP protection as comment on an issue of public interest. These included newspaper articles about medical practioners, which would be of help in choosing doctors, statements about insurance brokers which could warn others with similar problems, and claims that a manufacturer disseminated false information concerning the effectiveness of a drug. (See *Wong, supra*, 189 Cal.App.4th at pp. 1366-1367.)

Given Albert's efforts to project herself as a champion for consumers and distressed homeowners against big banks, comments on her ethics and competence to represent consumers and distressed homeowners come within the public interest protection of the anti-SLAPP statute. If articles about doctors and insurance brokers are within the purview of the anti-SLAPP statute, so too are comments about the competence and ethics of a lawyer heavily involved in the foreclosure fallout from that 2008 recession. (See *Chaker v. Mateo* (2012) 209 Cal.App.4th 1138, 1146 ["We also have little difficulty finding the statements were of public interest. The statements posted to the Ripoff Report Web site about Chaker's character and business practices plainly fall within in the rubric of consumer information about Chaker's 'Counterforensics' business and were intended to serve as a warning to consumers about his trustworthiness."].)

3. *Prong Two: Subheadings D.1. and F.*

To the degree that Albert raises prong two arguments regarding statements of Ragland, Rozier or Nikolic in her opening brief, she has failed to show prejudicial error on appeal by insufficiently specifying record references. (See *Bernard, supra,* 226 Cal.App.3d at p. 1205.) She has further failed to show prejudicial error by failing to

provide the exact language of any of those statements. Nor has Albert made any attempt to explain the context of any statement.

In *Reed v. Gallagher* (2016) 248 Cal.App.4th 841, a case decided under the anti-SLAPP statute,[10] the court pointed out the importance of context in determining whether a given statement is defamatory: "As noted, courts apply a totality of the circumstances test in determining whether a statement is actionable fact or nonactionable opinion. [Citation.] *This requires an examination of the statements themselves and the context in which they were made.* [Citation.] On the issue of context, our Supreme Court has explained: '[W]here potentially defamatory statements are published in a . . . setting in which the audience may anticipate efforts by the parties to persuade others to their positions by use of epithets, fiery rhetoric or hyperbole, language which generally might be considered as statements of fact may well assume the character of statements of opinion.' [Citation.]" (*Id*. at p. 859, italics added.)

We would add that showing context is necessary to demonstrate trial court error because the appellate court needs to be able to distinguish actionable defamation as a falsifiable statement of fact from mere rhetorical hyperbole or inflammatory opinion. (See *Franklin v. Dynamic Details, Inc.* (2004) 116 Cal.App.4th 375, 385 ["the dispositive question is whether a reasonable fact finder could conclude the published statement declares or implies a provably false assertion of fact"] & 390 [certain words are "too vague to be actionable"].) As the court said in *Barker v. Fox & Associates* (2015) 240 Cal.App.4th 333: "'the court must determine, as a question of law, whether the defamatory matter is on its face or capable of the defamatory meaning attributed to it by the innuendo.'" (*Id*. at p. 343, fn. 3, quoting 5 Witkin, Cal. Procedure (5th ed. 2008) Pleading, § 739, p. 159.)

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[10] As distinguished from *Williams v. Seiglitz* (1921) 186 Cal. 767 or *Albertini v Schaefer* (1979) 97 Cal.App.3d 822, which are the two cases Albert relies on.

But Albert's opening brief does not contain a single exact quote of any the statements themselves. Rather all we have are Albert's *paraphrases* of what *Albert* says Ragland, Rozier or Nikolic supposedly said. The best example: "Like Albertini v. Schaefer [supra] 97 Cal.App.3d 822 and Sieglitz, Defendants literally meant plaintiff was a crook." (App. opn. br. at p. 29.) There is no specific record reference in her opening brief documenting that Ragland, Rozier or Nikolic ever used the exact word "crook." The one record reference she does give us on the crook allegation (on page 28 of her opening brief) cites us to *99 pages*,[11] and contains no exact quotes, nor makes any attempt to provide any context to any statement. Any valid argument Albert might have had in regard to the exact language, in context, used by Ragland, Rozier or Nikolic, is thus waived. (See *Bernard, supra*, 226 Cal.App.3d at p. 1205.)

The same may be said for Albert's D.1 subheading "Defamation, IIED, and Interference With Economic Relations." Here she gives us block record references, depending on how you count them, that exceed 200 pages, as part of what appears to be, on page 36 of her brief, the bottom line legal argument that "when read as a whole," her "evidence . . . meets the stand [*sic*] in Bentley [*Reserve LP v. Papaliolios* (2013) 218 Cal.App.4th 418 (*Bentley*)]."

We cannot search 212 pages of record to ascertain whether it meets the standard in *Bentley* – not while according appropriate time to parties who comply with court rules. (See e.g., *Cristler v. Express Messenger Systems, Inc.* (2009) 171 Cal.App.4th 72, 89; accord, *Air Couriers Internat. v. Employment Development Dept.* (2007) 150 Cal.App.4th 923, 928 ["We have no duty to search the record for evidence

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11 "Maegan Nikolic called plaintiff a crook and joined in co-defendants telling others she was a crook. Both Maegan Nikolic and Karen Rozier told other homeowners that Plaintiff steals money from her clients. They also said that she takes homeowner's money and then does not file the papers or that she files them late, implying that the homeowner lost their case as a result. [AA 446-545] [¶] These statements are nothing short of calling plaintiff a thief." (Brackets in original.)

and may disregard any factual contention not supported by proper citations to the record"].) Nor is it fair to the opposing parties for us to do her work for her in regard to prong two by (1) identifying the exact language she claims is defamatory, (2) providing a record reference for that language in a voluminous record; and then (3) explaining why a reasonable juror could conclude that, in context, those words reflected falsifiable statements of facts (i.e., actionable defamation) as distinct from rhetorical hyperbole or exaggerated opinion. Albert has done none of those things so she has effectively abandoned any prong two arguments about any of the statements made by Ragland, Rozier or Nikolic.

III. YELP'S ATTORNEY FEE AWARD

Yelp was the first of the 725 defendants to file an anti-SLAPP motion, and that order was affirmed in an unpublished decision by this court last year. Yelp obtained an attorney fee award of approximately $30,000 in the same May 1, 2015 order, granting the substantive anti-SLAPP motions of Xcentric, Ragland, Rozier and Nikolic, hence we now deal with Albert's challenge to that award in this appeal.

Albert opens with two arguments against Yelp's fee award: Yelp's motion for fees was "cookie cutter" (presumably not requiring much time or effort) and Yelp "double billed with their in house counsel and billed for attorneys that were never attorneys of record." She then conclusorily states the fees "requested" were "unreasonable" for which she provides two block record references encompassing an aggregate of 57 pages. She then elaborates by intimating that the fee award was unreasonably inflated because the fees somehow included "the entire lawsuit," as distinct from the anti-SLAPP motion proper.

Fees awarded to parties successful in an anti-SLAPP motion are a matter of trial court discretion and it is appellant's burden to show abuse of discretion. (E.g., *Gerbosi v. Gaims, Weil, West & Epstein, LLP* (2011) 193 Cal.App.4th 435, 450.) Albert

has made no serious effort, given her block record references, to support her allegations of double billing or for work beyond the anti-SLAPP motion, and that is enough for us to affirm the order.

Having wrestled with the merits of Yelp's anti-SLAPP motion in a previous unpublished decision, we are in a good position ourselves to evaluate the complexity of the legal work involved in Yelp's anti-SLAPP motion. (See *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095 [recognizing experienced trial judge is in the best position to decide value of professional services rendered in court].) And the award seems quite reasonable to us, given these factors in the trial court record: (1) As was the case with Xcentric in this appeal, Albert raised complex issues involving an internet site's own commercial speech; (2) as was the case with Xcentric in this appeal, Albert attacked the internet provider's business model as extortionate; (3) the anti-SLAPP motion resulted in the dismissal of all claims against Yelp; and (4) Albert does not provide even a single entry showing an unreasonable charge. The fee award in favor of Yelp is, accordingly, affirmed.

IV. DISPOSITION

(1) The anti-SLAPP order in favor of respondent Xcentric Ventures is affirmed. However, in the interests of justice each side will bear its own costs on appeal in regard to Xcentric. Xcentric is the lucky beneficiary of Albert's failure to include an extortion claim in her complaint.

(2) The anti-SLAPP order in favor of respondent Pam Ragland is affirmed. Ragland, as prevailing party, shall recover her costs on appeal.

(3) The anti-SLAPP orders in favor of respondent Karen Rozier and Maegan Nikolic are affirmed. However, since neither Rozier nor Nikolic filed respondent's briefs, they have no basis for costs on appeal.

(4) The attorney fee order in favor of respondent Yelp is affirmed. Yelp shall recover its costs in this appeal, which is confined to the attorney fee issue.

BEDSWORTH, ACTING P. J.

WE CONCUR:

MOORE, J.

FYBEL, J.